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CATERPILLAR INC. 100 N.E. ADAMS STREET PATENT DEPT. PEORIA, IL 616296490			KRAMER, JAMES A	
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DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/020,147	Applicant(s) CRAYTON ET AL.	
	Examiner James A. Kramer	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-14,16-31 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-14,16-31 and 35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/14/01</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4, 18-23, 27-29 and 35-37 rejected under 35 U.S.C. 102(e) as being anticipated by Washington.

Washington teaches a system and method for complying with affirmative action programs.

With respect to **Claim 1**, Washington teaches *establishing a value threshold* (page 2, paragraph 0020 and page 3, paragraph 0024). Examiner notes that Applicant defines value threshold in the specification on paragraph 15. Per this disclosure Examiner notes that Washington's POG and SPG meet this criteria.

With further respect to **Claim 1**, Washington teaches *establishing a plurality of supplier classes, each supplier class corresponding to a supplier selection guideline to be used when a member of the supplier class is considered for selection* (page 2 paragraph 0021- page 3, paragraph 0025).

Examiner notes that the objective of the Washington invention is to aid Disadvantaged Business Enterprises (DBEs). As such regulations have been put in place to remedy past and current discrimination against DBE's, ensure a level playing field, foster equal opportunity and reduce burdens on small business (page 1, paragraph 0009). Examiner notes that these regulations represent supplier selection guidelines to be used when a member of a supplier class (DBE) is considered for selection.

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Further, Washington teaches compiling a list of qualified contractors, which includes placing them in various classes including an identification of which contractors qualify as DBEs.

With further respect to **Claim 1**, Washington teaches *establishing a transaction, said transaction having an associated value* (page 3, paragraph 0029 and paragraph 0032).

Examiner notes that awarding contracts represents establishing a transaction. In addition the amount of money paid for the contract represents the associated value of the contract (transaction).

With further respect to **Claim 1**, Washington teaches *comparing said transaction value with said value threshold in an automated manner* (page 3, paragraph 0032). Examiner makes special note of the following teaching of Washington “the money actually paid to DBE’s project-wide is compared with the POG.” Examiner notes that money paid represents a transaction value and as previously stated the POG represents the value threshold. Thus Washington teaches comparing the two.

With further respect to **Claim 1**, Washington teaches *for each supplier class represented in a plurality of potential suppliers, applying the corresponding supplier selection guideline* (page 3, paragraph 0029). Examiner notes that counting money a DBE retains as profits towards a contractors commitment represents applying a corresponding guideline for a supplier class represented.

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With further respect to **Claim 1**, Washington teaches *managing at least one aspect of the supplier selection procurement process in response to said comparison and said applying step* (pages 3-4, paragraph 0032).

Examiner notes that Washington, based on the comparison of the money spent (transaction value) versus POG (value threshold) applies an adjustment to a race conscious (RC) value (the money allocated to DBE's pursuant to the regulations or guidelines, see page 2, paragraph 0020). Examiner notes that altering the RC component of a budget represents managing at least one aspect of the supplier selection procurement process in response to said comparison and said applying step.

With respect to **Claim 3**, Washington teaches *wherein said transaction value includes a price associated with at least one of a good and a service associated with transaction* (page 3, paragraph 0029 and paragraph 0032). Once again, Examiner notes that awarding contracts represents establishing a transaction. In addition the amount of money paid for the contract represents a price associated value of the contract (good or service associated with the transaction).

With respect to **Claim 4**, Washington teaches *where the step of managing said supplier selection process further includes the step of documenting a characteristic of said supplier selection process in response to said purchase price being greater than said value threshold* (page 3, paragraph 0029 and pages 3-4 paragraph 0032).

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Examiner once again notes that altering the RC component of a budget represents managing at least one aspect of the supplier selection procurement process in response to said comparison and said applying step. Examiner specifically points out that Washington teaches increasing the RC component when actual money paid (transaction value) is less than POG (value threshold) and decreasing the RC component when actual money paid (transaction value) is greater than POG (value threshold).

Further, Washington teaches keeping a record of values when required by government regulations (guidelines) and subsequent monitoring. Examiner notes that keeping records and monitoring represents documenting a characteristic. Further, documenting and monitoring the decreasing of the RC component when actual money paid (transaction value) is greater than POG (value threshold) represents documenting a characteristic of the supplier selection process in response to said purchase price being greater than said value threshold.

With respect to **Claim 18**, Washington teaches *establishing a value threshold* (page 2, paragraph 0020 and page 3, paragraph 0024). Examiner notes that Applicant defines value threshold in the specification on paragraph 15. Per this disclosure Examiner notes that Washington's POG and SPG meet this criteria.

With further respect to **Claim 18**, Washington teaches *identifying a supplier selection guideline* and *identifying a plurality of supplier classes* (page 2 paragraph 0021- page 3, paragraph 0025).

Examiner notes that the objective of the Washington invention is to aid Disadvantaged Business Enterprises (DBEs). As such regulations have been put in place to remedy past and current discrimination against DBE's, ensure a level playing field, foster equal opportunity and reduce burdens on small business (page 1, paragraph 0009). Examiner notes that these regulations represent identifying supplier selection guidelines to be used when a member of a supplier class (DBE) is considered for selection.

Further, Washington teaches compiling a list of qualified contractors, which includes placing them in various classes including an identification of which contractors qualify as DBEs.

With further respect to **Claim 18**, Washington teaches *establishing a transaction, said transaction having an associated value* (page 3, paragraph 0029 and paragraph 0032).

Examiner notes that awarding contracts represents establishing a transaction. In addition the amount of money paid for the contract represents the associated value of the contract (transaction).

With further respect to **Claim 18**, Washington teaches *comparing said transaction value with said value threshold in an automated manner* (page 3, paragraph 0032). Examiner makes special note of the following teaching of Washington "the money actually paid to DBE's project-wide is compared with the POG." Examiner notes that money paid represents a transaction value and as previously stated the POG represents the value threshold. Thus Washington teaches comparing the two.

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With further respect to **Claim 18**, Washington teaches *performing a supplier selection process associated with said transaction, with at least one supplier in response to said value threshold and at least one of said supplier classes and said supplier selection guidelines* (page 3, paragraph 0029).

Examiner notes that awarding race conscious contracts requires a user to consider the POG (value threshold) as well as the supplier classes and regulations (supplier selection guidelines). As such this act represents performing a supplier selection process associated with said transaction with at least one supplier in response to value threshold and at least one of said supplier classes and supplier selection guidelines.

With further respect to **Claim 18**, Washington teaches *determining a documentation amount in response to said selection guidelines and said comparison and documenting at least one characteristic of said supplier selection process in response to said documentation amount* (page 3, paragraph 0029).

Examiner notes that keeping records when required by government regulations (guidelines) represents documenting at least one characteristic of said supplier selection process. Further, Examiner asserts that keeping a record of initial values represents a documentation amount and thus includes determination of that documentation amount (i.e. based on the regulations). Further, recoding of a value after an increase or decrease in the RC value, represents a documentation amount in response to the comparison.

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With respect to **Claim 19**, Washington teaches *wherein said transaction value includes a price associated with at least one of a good and a service associated with said transaction* (page 3, paragraph 0029 and paragraph 0032). Once again, Examiner notes that awarding contracts represents establishing a transaction. In addition the amount of money paid for the contract represents a price associated value of the contract (good or service associated with the transaction).

With respect to **Claim 20**, Washington teaches *where the step of documenting said supplier selection process characteristic further includes the step of documenting said supplier selection process characteristic in response to said purchase amount being greater than said value threshold* (page 3, paragraph 0029 and pages 3-4 paragraph 0032).

Examiner once again points out that Washington teaches increasing the RC component when actual money paid (transaction value) is less than POG (value threshold) and decreasing the RC component when actual money paid (transaction value) is greater than POG (value threshold).

Further, Washington teaches keeping a record of values when required by government regulations (guidelines) and subsequent monitoring. Examiner notes that keeping records and monitoring represents documenting a characteristic. Further, documenting and monitoring the decreasing of the RC component when actual money paid (transaction value) is greater than POG (value threshold) represents documenting a characteristic of the supplier selection process in response to said purchase price being greater than said value threshold.

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With respect to **Claim 21**, Washington teaches *wherein said transaction value is an actual committed value of said transaction* (page 3, lines 0032). Examiner notes that actual moneys spent represents an actual committed value.

With respect to **Claim 22**, Washington teaches *where the step of documenting said supplier selection process characteristic further includes the step of documenting said supplier selection process characteristic in response to said actual amount billed against said transaction being greater than said value threshold* (page 3, paragraph 0029 and pages 3-4 paragraph 0032).

Examiner once again points out that Washington teaches increasing the RC component when actual money paid (actual amount billed against said transaction) is less than POG (value threshold) and decreasing the RC component when actual money paid (transaction value) is greater than POG (value threshold).

Further, Washington teaches keeping a record of values when required by government regulations (guidelines) and subsequent monitoring. Examiner notes that keeping records and monitoring represents documenting a characteristic. Further, documenting and monitoring the decreasing of the RC component when actual money paid (transaction value) is greater than POG (value threshold) represents documenting a characteristic of the supplier selection process in response to said purchase price being greater than said value threshold.

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With respect to **Claim 23**, Washington teaches *monitoring said actual committed value during an active period of said transaction* (page 3, paragraph 0032). Examiner notes that “for each time period” represents an active period.

With respect to **Claim 27**, Washington teaches *a repository including at least one transaction, said transaction having an associated transaction value* (page 3, paragraph 0029 and paragraph 0032 and page 5, paragraph 0046). Examiner notes that awarding contracts represents establishing a transaction. In addition the amount of money paid for the contract represents the associated value of the contract (transaction). Further, for the system includes a computer memory which represents a repository.

With further respect to **Claim 27**, Washington teaches *a monitoring system configured to establish a value threshold, establish a plurality of supplier classes, each supplier class corresponding to a supplier selection guideline to be used when a member of the supplier class is considered for selection, compare said transaction value with said value threshold, apply the supplier selection guidelines corresponding to each supplier class represented in a plurality of suppliers and manage said procurement processes in response to said comparison said management including documenting at least one aspect of said supplier selection process in response to said guidelines, said supplier classes and said comparison.*

Examiner references the analysis provided with respect to claims 1 and 18 above. Further Examiner references the description of Washington’s system on page 5, paragraph 0046 for a monitoring system.

With respect to **Claim 28**, Washington teaches *wherein said transaction value includes a price of at least one of a good and a service associated with said transaction* (page 3, paragraph 0029 and paragraph 0032). Once again, Examiner notes that awarding contracts represents establishing a transaction. In addition the amount of money paid for the contract represents a price associated value of the contract (good or service associated with the transaction).

With respect to **Claim 29**, Washington teaches *wherein said monitoring system is further configured to notify a purchaser associated with said transaction in response to said price being greater than said value threshold* (pages 3-4, paragraph 0032).

Examiner once again notes Washington specifically teaches if the money paid (price) is more than the POG (value threshold) the RC component is decreased by the user. Based on this teaching, Examiner asserts that the system of Washington is inherently configured to notify the user when money paid (price) is more than the POG (value threshold). In support of this assertion, Examiner offers that the only possible way for the user to know whether to increase or decrease the RC component is for the system to notify him/her of whether the money paid (price) is more than or less than the POB (value threshold). Without this notification the user would not know that they should decrease the RC component. As such, the notification is necessarily present in the system of Washington.

With respect to **Claim 35**, Washington teaches *establishing a plurality of supplier classes, each supplier class corresponding to a supplier selection requirement to be used when a member of the supplier class is considered for selection* (page 2 paragraph 0021- page 3, paragraph 0025).

Examiner notes that the objective of the Washington invention is to aid Disadvantaged Business Enterprises (DBEs). As such regulations have been put in place to remedy past and current discrimination against DBE's, ensure a level playing field, foster equal opportunity and reduce burdens on small business (page 1, paragraph 0009). Examiner notes that these regulations represent supplier selection requirements to be used when a member of a supplier class (DBE) is considered for selection.

Further, Washington teaches compiling a list of qualified contractors, which includes placing them in various classes including an identification of which contractors qualify as DBEs.

With further respect to **Claim 35**, Washington teaches *after the supplier classes are established, categorizing a plurality of potential suppliers according to supplier class* (pages 2-3, paragraphs 0021-0023). Examiner notes that this compiling a database of contractors, including all relevant information represents categorizing the contractors (suppliers).

With further respect to **Claim 35**, Washington teaches *for each supplier class represented in the plurality of potential suppliers, applying the corresponding supplier selection requirement when selecting a supplier from the plurality of potential suppliers* (page 3, paragraph 0029). Examiner notes that counting money a DBE retains as profits towards a

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contractors commitment represents applying a corresponding requirement (government regulation) for a supplier class represented.

With respect to **Claim 36**, Washington teaches *wherein applying the supplier selection requirement includes documenting data related to at least one of: suppliers from whom bids were solicited, suppliers that responded to a solicitation for bids, unsolicited bids and bids received but not selected* (page 3, paragraphs 0029-0031). Examiner notes that Washington's "contractor agreeing to a race conscious contract" represents a supplier that responded to a solicitation for bids.

With respect to **Claim 37**, Washington teaches *wherein the plurality of supplier classes includes at least one of: small business, disadvantaged businesses, minority-owned business, veteran-owned business, woman-owned businesses, and a hub-zoned business* (see page 2, paragraph 0020). Washington's DBE's represents disadvantaged businesses.

Claim Rejections - 35 USC § 103

Claims 5-10 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washington in view of TurboTax.

With respect to **Claim 5**, Washington, as discussed in detail above teaches keeping a record if required by a particular government regulation (page 3, paragraph 0029). Once again Examiner points out that this represents documenting a supplier selection process characteristic

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However, Washington does not specifically teach **notifying** a purchaser to document said supplier selection process characteristic.

Turbo Tax teaches an EasyStep Interview system for filing income tax. Examiner notes that filing income tax is analogous art to both Applicant's invention and the invention of Washington since it solves essentially the same problem, namely the documentation of information in response to laws, requirements and/or guidelines.

Examiner notes that the EasyStep Interview of Turbo Tax (pages 27 and 29) includes pop-up forms with on-screen instructions to help a user know what information needs to be documented. Examiner notes that these forms are used to notify a user to document certain information required by the guidelines (see box at bottom of page 29, "If you are uncertain of your tax knowledge or you are not sure which tax forms to fill out, use EasyStep Interview").

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Washington, to notify a user to keep a record when required by a particular government regulation as taught by TurboTax. One of ordinary skill in the art would have been motivated to combine the references in order to assist a user who is not sure which information needs to be recorded.

With respect to **Claim 6**, Washington teaches ***selecting a supplier to fulfill said transaction in response to said supplier selection process*** (page 3, paragraph 0029). Examiner notes that awarding contracts represents selecting a supplier to fulfill said transaction.

With respect to **Claim 7**, Washington teaches *establishing a supplier selection guideline* (page 1, paragraph 0009).

Examiner once again notes that the objective of the Washington invention is to aid Disadvantaged Business Enterprises (DBEs). As such regulations have been put in place to remedy past and current discrimination against DBE's, ensure a level playing field, foster equal opportunity and reduce burdens on small business (page 1, paragraph 0009). Examiner notes that these regulations represent the establishment of supplier selection guidelines.

With further respect to **Claim 7**, Washington teaches *comparing said documentation with said selection guidelines* (page 3, paragraph 0029).

Examiner notes that monitoring to evaluate how a user's affirmative action plan is proceeding represents comparing documentation with guidelines.

With respect to **claim 8**, Washington teaches *wherein said transaction value includes an actual committed value of said transaction* (page 3, lines 0032). Examiner notes that actual moneys spent represents an actual committed value.

With respect to **claim 9**, Washington teaches monitoring *said actual committed value during an active period of said transaction* (page 3, paragraph 0032). Examiner notes that "for each time period" represents an active period.

With respect to **Claim 10**, Washington teaches *wherein the step of documenting said characteristic of supplier selection process further includes the step of documenting said characteristic of supplier selection process in response to said actual amount billed against said transaction being greater than said value threshold* (page 3, paragraph 0029 and pages 3-4 paragraph 0032).

Examiner once again points out that Washington teaches increasing the RC component when actual money paid (actual amount billed against said transaction) is less than POG (value threshold) and decreasing the RC component when actual money paid (transaction value) is greater than POG (value threshold).

Further, Washington teaches keeping a record of values when required by government regulations (guidelines) and subsequent monitoring. Examiner notes that keeping records and monitoring represents documenting a characteristic. Further, documenting and monitoring the decreasing of the RC component when actual money paid (transaction value) is greater than POG (value threshold) represents documenting a characteristic of the supplier selection process in response to said purchase price being greater than said value threshold.

With respect to **Claims 30 and 31**, as discussed in detail above Washington teaches keeping a record if required by a particular government regulation (page 3, paragraph 0029). Once again Examiner points out that this represents documenting a supplier selection process characteristic

However, Washington does not specifically teach that the system is *configured to determine whether a documentation procurement process characteristic associated with the*

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transaction has been document, nor does it teach the system *configured to notify a purchaser to enter said documentation*.

Turbo Tax teaches an EasyStep Interview system for filing income tax. Examiner notes that filing income tax is analogous art to both Applicant's invention and the invention of Washington since it solves essentially the same problem, namely the documentation of information in response to laws, requirements and/or guidelines.

Examiner notes that the EasyStep Interview of Turbo Tax (pages 27 and 29) includes pop-up forms with on-screen instructions to help a user know what information needs to be documented. Examiner notes that these forms are used to notify a user to document certain information required by the guidelines (see box at bottom of page 29, "If you are uncertain of your tax knowledge or you are not sure which tax forms to fill out, use EasyStep Interview").

Further, pages 12-25 of TurboTax teaches importing data into TurboTax. Examiner notes that when this data is imported, for example from a previous year's tax return, the information is automatically filled into the EasyStep Interview. Examiner notes that this process represents determining whether a characteristic has been documentation and notifying the user of what is required and what has already been recorded or documented.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Washington, determine what characteristics have already been recorded and to notify a user to keep a record when required by a particular government regulation as taught by TurboTax. One of ordinary skill in the art would have been motivated to combine the references in order to assist a user who is not sure which information needs to be recorded.

Claims 11-13 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washington in view of *Barron's Dictionary of Business Terms* (hereinafter Barron).

Examiner notes that Barron represents evidence of what one with ordinary skill in the art would have known at the time of the present invention.

With respect to **Claim 11**, Washington, as discussed in detail above teaches monitoring actual affirmative action progress as a project progresses and modifying a set of goals and future behavior to better reflect the relevant marketplace (page 2, paragraph 0013).

Examiner further notes that Washington teaches a projects "lifetime" and breaking a projects lifetime down into discrete segments and monitoring the affirmative action performance on these discrete segments only after moneys have been collected. (page 3, paragraphs 0030-0031). As a result, for any particular project depending on where the project is in its lifetime, a company has an "earned value" and an "unearned value". The current embodiments of Washington only teach evaluating the "earned" portion.

As such, Examiner notes that Washington fails to teach *wherein the transaction value includes a predicted transaction value*, as required by claim 11.

Examiner asserts that forecasting is and well known in the art. In support of this statement Examiner offers the definition of forecasting from Barron: "estimating future trends." Under the definition of forecast Barron reference projection and prediction. Examiner offers those definitions also. Projection: estimate of future performance made by economists, corporate planners and credit and security analysts. Prediction: foretelling of future events, probabilistic estimates of future occurrences based upon different estimation methods.

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Examiner asserts that one of ordinary skill in the art would recognize that companies utilize forecasts in order to proactively monitor and modify performance.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made want to estimate the future trends of a company's affirmative action performance based on the unearned value of their contracts (moneys to be collected). One of ordinary skill in the art would have been motivated to modify the reference in order to allow the users to proactively monitor their affirmative action performance.

With respect to **Claim 12**, Washington in view of Barron teaches *comparing a characteristic of said transaction with a characteristic of at least one previous transaction and determining said predicted transaction value in response to said comparison*. Examiner references the analysis as applied to claim 11 above and notes that as described above the unearned value of a company's contracts represents a predicted transaction value in response to comparing a current transaction with previous transaction. In other words to determined the unearned portion a company takes the total value of the contract and compares that to the previously earned portion.

With respect to **Claim 13**, Washington in view of Barrons teaches *where the step of managing said procurement process further includes the step of documenting a characteristic of said supplier selection process in response to said predicted billed amount being greater than said value threshold* (page 3, paragraph 0029 and pages 3-4 paragraph 0032).

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Examiner once again notes that altering the RC component of a budget represents managing at least one aspect of the supplier selection procurement process in response to said comparison and said applying step. Examiner specifically points out that Washington teaches increasing the RC component when actual money paid (transaction value) is less than POG (value threshold) and decreasing the RC component when actual money paid (transaction value) is greater than POG (value threshold).

Further, Examiner references the combination of Washington in view of Barron and notes that It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the unearned amount (predicted billed amount) in the same manner as the earned, in order to provide proactive management of the affirmative action plan.

Further, Washington teaches keeping a record of values when required by government regulations (guidelines) and subsequent monitoring. Examiner notes that keeping records and monitoring represents documenting a characteristic. As such, documenting and monitoring the decreasing of the RC component based on the unearned value (predicted billed amount) is greater than POG (value threshold) would represents documenting a characteristic of the supplier selection process in response to said predicted unbilled amount being greater than said value threshold.

With respect to **Claim 24**, Washington, as discussed in detail above teaches monitoring actual affirmative action progress as a project progresses and modifying a set of goals and future behavior to better reflect the relevant marketplace (page 2, paragraph 0013).

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Examiner further notes that Washington teaches a projects “lifetime” and breaking a projects lifetime down into discrete segments and monitoring the affirmative action performance on these discrete segments only after moneys have been collected. (page 3, paragraphs 0030-0031). As a result, for any particular project depending on where the project is in its lifetime, a company has an “earned value” and an “unearned value”. The current embodiments of Washington only teach evaluating the “earned” portion.

As such, Examiner notes that Washington fails to teach *wherein the transaction value includes a predicted transaction value*, as required by claim 11.

Examiner asserts that forecasting is and well known in the art. In support of this statement Examiner offers the definition of forecasting from Barron: “estimating future trends.” Under the definition of forecast Barron reference projection and prediction. Examiner offers those definitions also. Projection: estimate of future performance made by economists, corporate planners and credit and security analysts. Prediction: foretelling of future events, probabilistic estimates of future occurrences based upon different estimation methods.

Examiner asserts that one of ordinary skill in the art would recognize that companies utilize forecasts in order to proactively monitor and modify performance.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made want to estimate the future trends of a company’s affirmative action performance based on the unearned value of their contracts (moneys to be collected). One of ordinary skill in the art would have been motivated to modify the reference in order to allow the users to proactively monitor their affirmative action performance.

With respect to **Claim 25**, Washington in view of Barron teaches *where the step of documenting said supplier selection process characteristic further includes the step of documenting said supplier selection process characteristic in response to said predicted billed amount being greater than said value threshold* (page 3, paragraph 0029 and pages 3-4 paragraph 0032).

Examiner once again notes that altering the RC component of a budget represents managing at least one aspect of the supplier selection procurement process in response to said comparison and said applying step. Examiner specifically points out that Washington teaches increasing the RC component when actual money paid (transaction value) is less than POG (value threshold) and decreasing the RC component when actual money paid (transaction value) is greater than POG (value threshold).

Further, Examiner references the combination of Washington in view of Barron (see analysis of claim 24 above) and notes that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the unearned amount (predicted billed amount) in the same manner as the earned, in order to provide proactive management of the affirmative action plan.

Further, Washington teaches keeping a record of values when required by government regulations (guidelines) and subsequent monitoring. Examiner notes that keeping records and monitoring represents documenting a characteristic. As such, documenting and monitoring the decreasing of the RC component based on the unearned value (predicted billed amount) is greater than POG (value threshold) would represents documenting a characteristic of the supplier

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selection process in response to said predicted unbilled amount being greater than said value threshold.

With respect to **Claim 26**, Washington in view of Barron teaches *comparing a characteristic of said transaction with a characteristic of at least one previous transaction and determining said predicted bill amount against said transaction value in response to said comparison*. Examiner references the analysis as applied to claim 24 above and notes that as described above the unearned value of a company's contracts represents a predicted transaction value in response to comparing a current transaction with previous transaction. In other words to determined the unearned portion a company takes the total value of the contract and compares that to the previously earned portion.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washington in view of Barron as applied to claims 11-13 above, and further in view of TurboTax.

With respect to **Claim 14**, Washington in view of Barron, as discussed in detail above teaches keeping a record if required by a particular government regulation (page 3, paragraph .0029). Once again Examiner points out that this represents documenting a supplier selection process characteristic

However, Washington does not specifically teach notifying a purchaser to document said supplier selection process characteristic.

Turbo Tax teaches an EasyStep Interview system for filing income tax. Examiner notes that filing income tax is analogous art to both Applicant's invention and the invention of Washington since it solves essentially the same problem, namely the documentation of information in response to laws, requirements and/or guidelines.

Examiner notes that the EasyStep Interview of Turbo Tax (pages 27 and 29) includes pop-up forms with on-screen instructions to help a user know what information needs to be documented. Examiner notes that these forms are used to notify a user to document certain information required by the guidelines (see box at bottom of page 29, "If you are uncertain of your tax knowledge or you are not sure which tax forms to fill out, use EasyStep Interview"). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Washington in view of Barron, to notify a user to keep a record when required by a particular government regulation as taught by TurboTax. One of ordinary skill in the art would have been motivated to combine the references in order to assist a user who is not sure which information needs to be recorded.

With respect to **Claim 15**, Washington teaches *selecting a supplier to fulfill said transaction in response to said supplier selection process* (page 3, paragraph 0029). Examiner notes that awarding contracts represents selecting a supplier to fulfill said transaction.

With respect to **Claim 16**, Washington teaches *establishing a supplier selection guideline* (page 1, paragraph 0009).

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Examiner once again notes that the objective of the Washington invention is to aid Disadvantaged Business Enterprises (DBEs). As such regulations have been put in place to remedy past and current discrimination against DBE's, ensure a level playing field, foster equal opportunity and reduce burdens on small business (page 1, paragraph 0009). Examiner notes that these regulations represent the establishment of supplier selection guidelines.

With further respect to **Claim 16**, Washington teaches *comparing said documentation with said selection guidelines* (page 3, paragraph 0029).

Examiner notes that monitoring to evaluate how a user's affirmative action plan is proceeding represents comparing documentation with guidelines.

With respect to **Claim 17**, Washington teaches *wherein the step of establishing said purchasing threshold further includes the step of establishing said purchasing threshold in response to said supplier selection guideline* (see Pages 2-3, paragraph 0023).

Examiner once again points out that the POG represents a value threshold. Paragraph 0023 details the procedure for calculating the POG. Examiner notes that this procedure is done in accordance with the affirmative action laws and regulations (i.e. supplier selection guidelines).

Response to Arguments

Applicant traverses Examiner's rejection to claims 35-37 under 35 USC 101. Examiner finds the arguments convincing and as such withdraw the rejection.

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Applicant asserts that Washington fails to teaches establishing a transaction before a supplier is selected. Examiner respectfully disagrees. Examiner specifically points to Washington page 3, paragraph 29, "the recipient may then begin awarding contracts to contractors to complete sub-projects." Clearly this teaches **before** a supplier is selected.

Applicant asserts that Washington fails to teach a comparing the transaction value with the value threshold in an selecting a supplier for the transaction by applying said transaction guideline. Examiner notes that comparing the money actually paid to the DBE's compared to the POG represents a prime contractor relying on a transaction guideline prior to awarding contracts to contractor for sub-projects.

Applicant asserts that the Washington reference does not disclose a supplier selection process based on both a transaction guideline and a supplier selection guideline. Examiner respectfully disagrees and points to the arguments presented in the previous paragraph as well as the fact that counting money a DBE retains as profits towards a contractors commitment represents applying a guideline.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer
Examiner
Art Unit 3627

jak

Michael Cuff 11/9/05

**MICHAEL CUFF
PRIMARY EXAMINER**